R E M A R K S

Claims 1 and 33-51 were rejected. Claims 52-98 have been added and are supported by the disclosure. Claims 1 and 33-98 are currently pending in this application.

Claim Rejections – 35 USC § 102

Claims 1 and 33-51 were rejected under 35 U.S.C. 102(e) as being anticipated by Budge et al. (US 6,014,689 A) (hereafter "Budge"). Applicant respectfully traverses as set forth below. In particular, Applicant respectfully traverses the Examiner's attempt to redefine the ordinary meaning of "streaming" with his reference to "Techweb Encyclopedia", as well as other misconstruings of limitiations of Applicant's claims and the prior art.

The Budge Reference

Budge describes a system wherein video messages are created in a manner that allows delivery over an electronic mail (e-mail) system. The audio and video components of the message are recorded, encoded, and synchronously combined into a video message file. A player is selectively attached to the video message file to create an executable file which can be <u>delivered as a standard binary file</u> over conventional communications networks. To view the received video e-mail, <u>the recipient executes the received file</u> and the attached player automatically plays the video and audio message or the recipient executes the previously installed player which plays the video message.

The Budge Reference Distinguished

The Budge reference describes a system that is markedly different from Applicant's claimed embodiments. With Applicant's embodiments, an e-mail message is combined with a *self-executing* programmable enhancement which is *streamed* over a network to display the audiovisual enhancement *in conjunction with the message.* Budge, in marked contrast, merely <u>attaches</u> an audiovisual file to an e-mail. As such, it

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is neither associated with the message, nor streamed over the network. Furthermore, while Budge optionally allows for the bundling of a video and audio player with a multimedia data file, such a file is not "self-executing." That is, the file would have to be downloaded as an attachment and then activated to cause execution.[1]

The Budge reference clearly describes the e-mail attachment as a "file." For example, Budge refers to the e-mail attachment as a file in many places. For example:

> **"The system provides means for capturing a video image and an audio signal. The video image and audio signal are encoded and combined into a multimedia data file. Selectively attached to this data file is an executable video e-mail player. The video e-mail system provides a means for transferring this multimedia data file to an e-mail client for eventual transfer to an e-mail recipient." Budge, Col. 2, lines 22-27;**

> **"A video message is generated at a sending location and a file is created from the video message. An executable player is attached to the file, which is sent over a communications link to a receiving location. The player is executed at the receiving location to retrieve the video message from the file." Budge, Col. 2, lines 29-34; and**

> **"The player retrieves the video message, or clip, 420 from this video file." Budge, Col. 5, lines 7-8**

Budge only discloses the creation and transmission of a multimedia file for playing at a recipient's computer. This file must be activated by the recipient and executed at the recipient's computer. This can clearly be seen in Figs. 3 and 4 of Budge:

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[1] *See,* for example, Budge Abstract, "the recipient executes the received file." The Examiner's attempt to use Budge, Col. 6, lines 5-12 as evidence of self-executing is clearly erroneous.
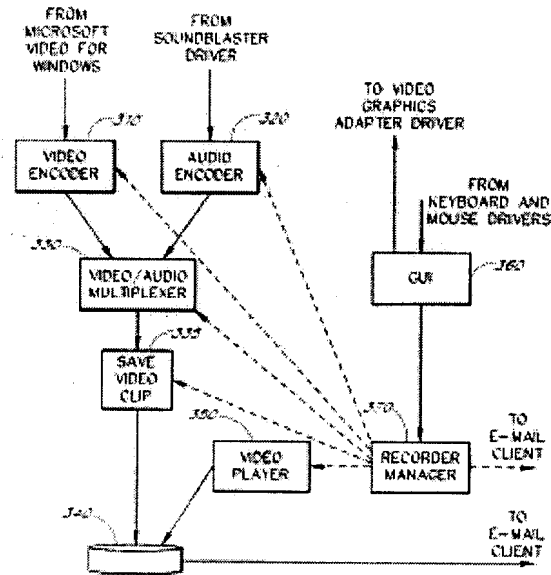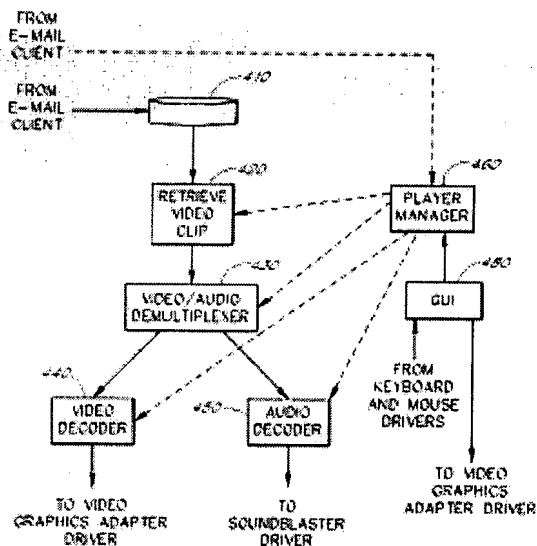
FIG. 3

FIG. 4

As seen in Fig. 3 (the sender's side), the file is saved in an operation 335 to a hard disk 340. It is then sent to the sender's e-mail client for eventual transmission by being attached to an e-mail. This is referred to as the "recorder" in Budge. As seen Fig. 4 (the recipient's side), the file is retrieved from a recipient's e-mail client, and

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stored on a hard disk 410 for decoding and playing. This is referred to as the "player" in Budge. It should be noted that at no time is the multimedia files *associated* with the message as claimed by applicant: it merely is a passenger riding on the e-mail transmission.

It is also abundantly clear from the above discussion that the audiovisual file of Budge is not streamed from a server to a recipient. It is stored firstly in a hard disk 340 on the sender side, and then stored secondly in a hard disk 410 on the recipient side. It is never *streamed* over a network from a server to a recipient, as claimed by Applicant.

The Examiner cited Col. 5, lines 4-17 of Budge as indicating that he streams multimedia from a server. Applicant respectfully traverses. This paragraph is reproduced below:

> **FIG. 4 shows a block diagram of a preferred embodiment of the video e-mail player 220. The player reads a video e-mail file 410, originating from the resident Email client. The player retrieves the video message, or clip, 420 from this video file. The player has a demultiplexer 430 which separates the video and audio data from the video file. The video data is decoded and typically decompressed with a video decoder 440 which transfers the video data to the video driver. The audio data is decoded and typically decompressed with an audio decoder 450 which transfers the audio data to the sound card driver. The various player functions are directed by the player manager 460. A graphical user interface (GUI) 480 provides for user control of the player functions. Budge, Col. 4-17**

Applicant fails to see <u>any</u> support for streaming in this paragraph. Each and every operation in this paragraph (see Fig. 4, above) is performed at the recipient's computer. There is <u>no</u> indication that there is any streaming from a server taking place but, rather, the multimedia file is being processed on the recipient's computer. Again, Applicant traverses the Examiner's attempt to redefine "streaming" as simply "transferring or transmitting data" in a blatant attempt to read this limitation on the prior art.

It is also clear that Budge does not associate the multimedia file with the message. Instead, a separate multimedia player window is caused to pop-up, with VCR-like controls. See Fig. 6 of Budge, below:
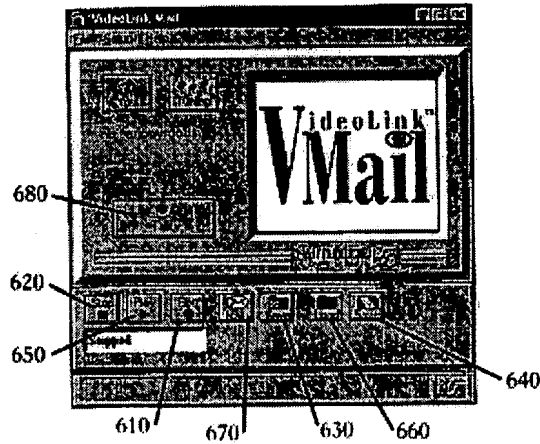
FIG. 6

This multimedia player is not *associated* with a message, as claimed by Applicant. See Applicant's Fig. 12, reproduced below.
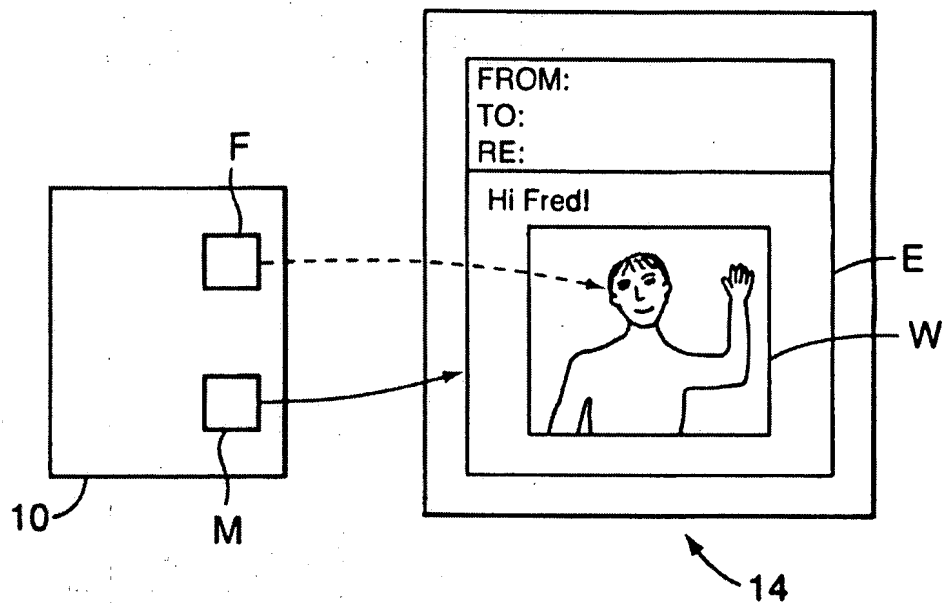

FIG. 12

As seen in Applicant's Fig. 12, the audiovisual content (the man smiling and waving) is *associated* with the message "Hi Fred!" The audiovisual content can be

stored on a server 10 as a file F, and streamed into the e-mail message E as indicated by the broken line arrow.

Each of the independent claims 1, 40 and 46 therefore include one or more limitations that are simply not found in or suggested by Budge. Budge teaches the attachment of an audiovisual file to an e-mail, where the playing of the file is fully on the recipient's machine, while Applicant claims the *association* of an audiovisual enhancement with a message in an e-mail, where the audiovisual enhancement is *self-executing* and is *streamed* over a network to the recipient's computer from a server. Claims 1, 40 and 46 are clearly patentable over Budge, and the rejections of these independent claims are respectfully requested to be withdrawn.

The dependent claims are patentable for at least the same reasons as set forth above with respect to the independent claims. Applicant therefore respectfully request that the rejections of the dependent claims be withdrawn as well.
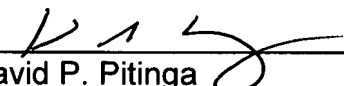
Claims 52-98 have been added to claim additional inventions disclosed in the specification and claims and are likewise considered to be patentable over Budge.

Conclusion

All claims being patentable, the Examiner respectfully requested to provide Applicant with an early Notice of Allowance. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 293-3355.

Respectfully submitted,

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